

REGULATION

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| Issued By: Executive | Rule Reference: Rules: 8-1 (Grievances) 8-3 (Technical Complaints) 8-4 (Summary Dismissal of Grievance Appeal or Technical Complaint) 8-7 (Appeal to Civil Service Commission) | | Replaces: Reg. 8.06 (CS-6940, March 18, 2001) |
| Authority: Regulations are issued by the State Personnel Director under authority granted in the Michigan Constitution and the Michigan Civil Service Commission Rules. Regulations are subordinate to the Commission Rules. | | | |
| Subject: COMPUTING TIME AND FILING DOCUMENTS | | | |

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1. PURPOSE

This regulation provides (1) uniform standards and requirements for computing periods of time in agency grievance proceedings and Civil Service proceedings, and (2) requirements for filing documents in Civil Service proceedings.

2. CIVIL SERVICE COMMISSION RULE REFERENCE

Note: This Section 2 reprints only selected Commission Rules for quick reference by the reader. Additional Rules (that are not reprinted below) may apply. The complete, current version of the Rules can be found at www.michigan.gov/mdcs.

Rule 8-1 Grievances

8-1.2 Time Limits

A grievance must be filed in writing within 14 calendar days after the employee knew of or, in the exercise of reasonable diligence, should have known of the circumstances giving rise to the grievance.

Rule 8-3 Technical Complaints

8-3.2 Time Limits

(a) Technical appointment complaint. *An unsuccessful candidate who alleges that the selection, appointment, or certification process for a position violated a civil service rule or regulation must file a technical appointment complaint with civil service technical review staff within the following time limits:*

(1) Notice mailed. *If the appointing authority mailed or delivered notice to the candidate that the candidate was removed from the selection process or that another person was appointed to the position, the candidate must file the technical appointment complaint no later than 14 calendar days after the later of (1) the effective date of the challenged appointment or (2) the date of the notice.*

(2) No notice mailed. *If the appointing authority does not mail or deliver notice to the candidate, the candidate must file the technical appointment complaint within 6 months after the effective date of the challenged appointment.*

(b) Other technical complaints. *A technical classification complaint, technical qualification complaint, or technical disbursement complaint must be filed within 14 calendar days after the date the civil service staff issued the original technical decision.*

Rule 8-4 Summary Dismissal of Grievance Appeal or Technical Complaint

A civil service adjudicating officer may summarily dismiss a grievance appeal or technical complaint for any of the following reasons:

(a) Not authorized. *The adjudicating officer lacks the authority to consider the grievance appeal or technical complaint under the civil service rules and regulations for either of the following reasons:*

(1) *The grievant or technical complainant is not authorized to file the grievance, grievance appeal, or technical complaint.*

(2) *The subject matter of the grievance, grievance appeal, or technical complaint is not reviewable in the forum selected.*

(b) Lack of jurisdiction. *Civil service staff or the civil service commission lacks jurisdiction over a necessary party or over the subject matter of the grievance appeal or technical complaint.*

- (c) **Untimeliness.** *The grievance, grievance appeal, or technical complaint was not filed timely.*
- (d) **Another action pending.** *Another civil service action has been initiated between the same parties involving substantially the same grievance or technical complaint.*
- (e) **Barred by prior claim.** *Substantially the same grievance or technical complaint was adjudicated to finality in another action between the same parties.*
- (f) **Failure to respond.** *A grievant or technical complainant fails to respond to a deficiency notice issued by civil service staff, as provided in the civil service rules and regulations.*

Rule 8-7 Appeal to Civil Service Commission

8-7.3 Time Limits for Appeal to Commission

- (a) **Time limits for appeal to commission.** *Except where another rule or a regulation establishes a shorter period, a claim of appeal or an application for leave to appeal must be received by the employment relations board within 28 calendar days after the date the final decision of the adjudicating officer is issued.*
- (b) **Proof of service.** *The party filing the appeal must serve a copy of the claim or application on all other parties and provide proof of the service within 3 calendar days after the claim or application is filed with the board.*
- (c) **Late filing.** *If a claim or application is not filed timely, the claim or application must be accompanied by an affidavit setting forth either good cause or special extenuating circumstances for the delay.*
 - (1) *The administrative officer may accept a claim or application up to 28 calendar days late if the appellant demonstrates good cause for the delay that was not due to the appellant's own negligence.*
 - (2) *The administrative officer may accept a claim or application filed more than 28 calendar days but less than one year late if the appellant demonstrates special extenuating circumstances for the delay.*
 - (3) *A claim or application filed more than one year late cannot be accepted or considered under any circumstances.*

8-7.4 Summary Dismissal of Claim or Application

A civil service administrative officer may recommend that the civil service commission summarily dismiss a claim or application for any of the following reasons:

- (a) **Not authorized.** *The appellant is not authorized to file the appeal or the claim or application is not subject to review by the commission.*
- (b) **Lack of jurisdiction.** *Civil service staff or the civil service commission lacks jurisdiction over a necessary party or over the subject matter of the appeal.*
- (c) **Untimeliness.** *The claim or application is untimely.*

- (d) **Another action pending.** *Another civil service action has been initiated between the same parties involving substantially the same matter.*
- (e) **Barred by prior claim.** *Substantially the same matter was adjudicated to finality in another action between the same parties.*
- (f) **Failure to respond.** *A grievant or technical complainant fails to respond to a deficiency notice issued by civil service staff, as provided in the civil service rules and regulations.*

3. **DEFINITIONS**

A. Civil Service Commission Rule Definitions

1. **Good cause** means an acceptable excuse for failing to file or take other required action timely. Good cause does not include a person's own carelessness, negligence, or inattention to the filing or other requirements.
2. **Special extenuating circumstances** means a compelling excuse for the failure to file a matter timely that arises out of one of the following:
 - (a) An intentionally or fraudulently misleading action by an appointing authority or party that prevented the filing.
 - (b) Serious physical or mental incapacity of the person that prevented the filing.
 - (c) Extraordinary unforeseen circumstances outside the control of the person that prevented the filing.

B. Additional Definition as used in this Regulation

1. **Authorized facsimile or e-mail** means a telephone facsimile number or e-mail address published by Civil Service at which a person is authorized to file documents in a particular type of Civil Service proceeding.
2. **Civil Service proceeding** means any administrative, technical, or quasi-judicial proceeding conducting by Civil Service, the State Personnel Director, the Employment Relations Board, or the Civil Service Commission. Civil Service proceeding does not include the steps of the grievance process conducted at the agency level leading to a final grievance decision of the appointing authority.
3. **Day** means a calendar day, including a Saturday, Sunday, and state holiday.
4. **Document** means any paper required to be filed, mailed, or received in any Civil Service proceeding. Document includes, but is not limited to, a grievance appeal, technical complaint, claim of appeal, application for leave to appeal, motion, brief, decision, order, or recommendation.
5. **Agency grievance proceeding** means the steps of the Civil Service grievance process authorized by Civil Service Regulation 8.01 [Grievance and Grievance Appeal Procedures] conducted at the

agency level leading to a final grievance decision of the appointing authority.

6. **Mailed** means deposited in a United States Postal Service mail receptacle property addressed, containing the document to be mailed, and with first-class postage fully prepaid on the envelope.
7. **Postmark** means a date stamp placed on a mailed envelope or a receipt issued by the United States Postal Service indicating the date the envelope was mailed or received by the United States Postal Service for mailing. A postmark does not include a date stamp placed by the sender, such as a postage meter stamp.
8. **Workday** means a day, Monday through Friday, on which the state executive offices are open for business. Workday does not include a Saturday, Sunday, or state holiday.

4. **STANDARDS**

A. Application of Regulation.

1. Standard B, Computing Time Periods, and applicable definitions, apply to (1) all agency grievance proceedings and (2) all Civil Service proceedings.
2. Standard C, Delivery and Receipt of Documents In Civil Service Proceedings, and applicable definitions, apply to all Civil Service proceedings, but do not apply to agency grievance proceedings.

B. Computing Time Periods.

1. Application.

Unless a rule or another regulation specifically provides for a different method, all time periods required by a rule or regulation for a Civil Service proceeding or a agency grievance proceeding are measured in days, weeks, months, or years, as provided in this regulation.

2. Counting Time.

- a. **Counting time in *days*.** The first day of a period measured in ***days*** is the day after the occurrence that starts the period running. The last day of the period is included.

►► Example of counting in ***days***:

“A grievance appeal must be filed within 14 calendar days after the final grievance decision is issued.”

If the final grievance decision being appealed is issued on Wednesday, September 13, the 14-day appeal period begins on the next day, Thursday, September 14. The grievance appeal must be filed in Civil Service no later than Wednesday, September 27. The calendar below highlights the 14 calendar days as they are counted:

SEPTEMBER

| Sun | Mon | Tues | Wed | Thurs | Fri | Sat |
|-----|-----|------|--------------------------------|-------|-----|-----|
| | | | | | 1 | 2 |
| 3 | 4 | 5 | 6 | 7 | 8 | 9 |
| 10 | 11 | 12 | 13/Decision Issued Today | 14 | 15 | 16 |
| 17 | 18 | 19 | 20 | 21 | 22 | 23 |
| 24 | 25 | 26 | 27/ Appeal Due Today | 28 | 29 | 30 |

- b. **Counting Time in Weeks.** The first day of a period measured in **weeks** is the day of the occurrence that starts the period running. A period measured in **weeks** ends on the same day of the week as the occurrence that begins the running of the period.

►► Example of counting in **weeks**:

“An appeal must be filed within 3 weeks after the final decision is issued.”

If the final decision being appealed is issued on Tuesday, October 5, the appeal must be received by Civil Service staff no later than Tuesday, October 26. The calendar below highlights the 3 weeks as they are counted:

OCTOBER

| Sun | Mon | Tues | Wed | Thurs | Fri | Sat |
|-----|-----|-------------------------------|-----|-------|-----|-----|
| | | | | | 1 | 2 |
| 3 | 4 | 5/Decision Issued Today | 6 | 7 | 8 | 9 |
| 10 | 11 | 12 | 13 | 14 | 15 | 16 |
| 17 | 18 | 19 | 20 | 21 | 22 | 23 |
| 24 | 25 | 26/Appeal Due Today | 27 | 28 | 29 | 30 |
| 31 | | | | | | |

- c. **Counting *months* or *years*.** The first day of a period measured in ***months*** or ***years*** is the day of the occurrence that starts the period running. A period measured in ***months*** or ***years*** ends on the same day of the month as the occurrence that begins the running of the period. If what would otherwise be the final month does not include that day, the last day of the period is the last day of that month.

►► Examples of counting in ***months***:

“An unfair labor practice (ULP) charge must be filed within 6 months after the date the unfair labor practice occurred.”

Example 1: If the ULP occurred on Thursday, May 17, 2001, the ULP Charge must be filed on or before Monday, November 17, 2001.

Example 2: If the ULP occurred on Thursday, August 30, 2000, the ULP charge must be filed on or before Wednesday, February 28, 2001. [February 2001 has no 29th or 30th. Therefore, the last day of February, the 28th, is the last day of the period.]

- d. **Effect of a Saturday, Sunday, and state holiday.** The occurrence of a Saturday, Sunday, or state holiday during the period does **not** lengthen the period unless the last day of the period falls on a Saturday, Sunday, or state holiday. If the last day of the period falls on a Saturday, Sunday, or state holiday, the period runs until the next workday.

►► Example:

“A grievance appeal must be filed within 14 calendar days after the final grievance decision is issued.”

If the final grievance decision is issued on Friday, December 18, the grievance appeal must be received by Civil Service staff no later than Monday, January 4. The 14-day period is **not** extended by the state holidays on December 24, 25, and 31. However, since the last day of period would fall on the January 1st holiday, the period is extended to the next workday, which is Monday, January 4.

| Sun | Mon | Tues | Wed | Thurs | Fri | Sat |
|--------|--|--------|--------|-------------------|--|--------|
| Dec 6 | Dec 7 | Dec 8 | Dec 9 | Dec 10 | Dec 11 | Dec 12 |
| Dec 13 | Dec 14 | Dec 15 | Dec 16 | Dec 17 | Dec 18/ Decision mailed Today | Dec 19 |
| Dec 20 | Dec 21 | Dec 22 | Dec 23 | Dec 24 Holiday | Dec 25 Holiday | Dec 26 |
| Dec 27 | Dec 28 | Dec 29 | Dec 30 | Dec 31 Holiday | Jan 1 Holiday | Jan 2 |
| Jan 3 | Jan 4/ Appeal Due Today | Jan 5 | Jan 6 | Jan 7 | Jan 8 | Jan 9 |

C. Delivery and Receipt Of Documents In Civil Service Proceedings.**1. Documents Received by Civil Service.**

- a. **Date Received.** When a period ends or begins on the date a document is received in a Civil Service office, the document is deemed to have been received on the ***earliest*** of the following:
 - (1) On the date the document is received in the Civil Service office during a time the office is open to the public. If a party elects to have a document delivered by mail or commercial courier, the document must be received in the Civil Service office before the expiration of the relevant period to be timely.
 - (2) On the date the document is received in the Civil Service office by authorized facsimile or e-mail, subject to required follow-up as provided in standard C.1.b.(2).
- b. **Facsimile or E-mail.**
 - (1) **Authorized facsimile or e-mail.** If Civil Service has published an authorized facsimile number or e-mail address for use in a specific type of Civil Service proceeding, a party in that type of Civil Service proceeding may file one copy of any document by authorized facsimile or e-mail.
 - (2) **Follow-up.** If a person filing a document is required to file an original signed document, multiple copies of the document, or attachments to the document, initial delivery by authorized facsimile or e-mail does not satisfy such additional requirements. In such case, an initial timely filing by authorized facsimile or e-mail is deemed timely only if the person delivers the required signed original, multiple copies, or attachments to the Civil Service office within 7 calendar days after the date of the initial filing by authorized facsimile or e-mail. If the original signed document, or multiple copies, or attachments are not received within 7 calendar days, the initial facsimile or e-mail filing is deemed untimely.

2. Documents Sent by Civil Service.

When a period begins on the date a document is issued by a Civil Service office, the period begins on the ***earliest*** of the following:

- a. The date the document is mailed by Civil Service to the last known address provided by the recipient.
- b. The date the document is delivered to a responsible person in the office of the recipient at a time the office is open.
- c. If the document is delivered by facsimile, the date the document is sent to the facsimile number provided by the recipient and receipt is confirmed.
- d. If the document is delivered by e-mail, the date the document is sent to the e-mail address provided by the recipient.
- e. The date the recipient actually receives the document.

3. Extension of Period.

Unless a rule or regulation permits the parties to stipulate to an extension of time, a deadline for filing a document in a Civil Service proceeding cannot be extended without the prior consent of an authorized Civil Service officer.

4. Effect of Time Limits.

A document that is filed late in a Civil Service proceeding will not be accepted unless it is accompanied by a written explanation of the reasons for the late filing that establishes either good cause or special extenuating circumstances. If the late filing is not accompanied by a written explanation or if the explanation fails to establish required good cause or special extenuating circumstances, the filing is dismissed as untimely.

- a. **Good cause.** A filing that is filed up to 28 calendar days late cannot be accepted unless the filing party establishes good cause for the late filing that was not due to the filing party's own negligence.
- b. **Special extenuating circumstances.** A filing that is filed more than 28 calendar day but less than 1 year late cannot be accepted unless the filing party establishes special extenuating circumstances for the late filing.
- c. **Maximum Limit.** A filing that is 1 year or more late cannot be accepted.

5. Correcting Deficiencies in Documents.

If a party in a Civil Service proceeding files a document that does not substantially comply with the requirements of a rule, regulation, or order, an adjudicating officer shall issue a notice of deficiency to the party. If the party does not correct the deficiency within 14 calendar days after the date the notice was issued, the adjudicating officer may reject the document, dismiss the party's claim, or take other appropriate action.

CONTACT

Questions regarding this regulation should be directed to the Office of the General Counsel, Civil Service Commission, P.O. Box 30002, 400 South Pine Street, Lansing, Michigan 48909; or by telephone, at 517-373-3024.